

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HARMONY HAUS WESTLAKE, L.L.C., et al.,	§ § § §	
Plaintiffs,	§ § § §	
v.	§	CIVIL NO. 1-20-CV-486-XR
PARKSTONE PROPERTY OWNERS ASSOCIATION, INC.,	§ § § §	
Defendant.	§ § §	

**PLAINTIFFS' AMENDED MOTION FOR LEAVE TO FILE RESPONSE TO
DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT OUT OF TIME**

Plaintiffs Harmony Haus Westlake, L.L.C., Ling Zhou, and Fenglin Du hereby file their Plaintiffs' Amended Motion for Leave to File Response to Defendants' Motion for Partial Summary Judgment Out of Time and would respectfully show the Court as follows. Plaintiffs respectfully request leave to file their Response to Defendant's Motion for Partial Summary Judgment (Dkt. No. 42). The proposed Response to Defendant's Motion for Partial Summary Judgment is attached to this Motion as Exhibit A. The exhibits to the proposed Response are attached to it as Exhibits 1-26.

In calculating the response deadlines for these motions, the undersigned counsel apparently inadvertently consulted the Local Rules for the United States District Court for the Northern District of Texas, in which he resides, rather than the Local Rules for the United States District Court for the Western District of Texas, in which this case is litigated. The Local Rules for the Northern District of Texas permit 21 days for a response. Consequently, the undersigned counsel inadvertently calendared the response deadlines for Plaintiffs' Response to Defendant's

Motion for Partial Summary Judgment as February 18. The undersigned counsel has been hard pressed with a heavy load of work over the past weeks with briefing to the Texas Supreme Court and a hearing in Mississippi and did not think to revisit the local rules to ensure the accuracy of his calendaring. The Local Rules for the Western District of Texas permit 14 days for the Response, which would have been Thursday, February 11. Consequently, Plaintiffs have missed the deadline as of the date of this filing.

In light of the critical nature of the Response, Plaintiffs respectfully move that this Court permit them to file the attached Response to Defendants' Motion for Partial Summary Judgment. Plaintiffs do not bring this motion for purposes of delay. Plaintiffs do not believe the relief requested will prejudice Defendant in this matter.

DATED: February 16, 2021

Respectfully submitted,

/s/ Mark Whitburn
Mark Whitburn
Texas Bar No. 24042144
Whitburn & Pevsner, PLLC
2000 E. Lamar Blvd., Suite 600
Arlington, Texas 76006
Tel: (817) 653-4547
Fax: (817) 653-4477
mwhitburn@whitburnpevsner.com

CERTIFICATE OF CONFERENCE

I hereby certify that I conferred with counsel of record for Defendant on February 12, 2021, concerning the relief requested in this Motion. Mr. Hansum indicated that he would reach back out to me later that day with a response. As of the time of this filing, I have not received a final response regarding the relief requested in this Motion. Consequently, I am not able to make a representation concerning the position of Defendant in this matter.

/s/ Mark Whitburn

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served on counsel of record for Defendant on February 16, 2021, via the electronic filing service as follows:

Eric J. Hansum
Niemann & Heyer, LLP
Westgate Building, Suite 313
1122 Colorado Street
Austin, Texas 78701

/s/ Mark Whitburn